XI-HS—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

CRIMINAL APPEAL NO.2532/1997

APPELLANT Ramsundar alias Sundar Korva, son of Aahoran Korva, aged about 25 years, resident of Village Sarvat, P.S. Bhandariya, District Gadwa (Bihar)

Vs

RESPONDENT State of M.P..

Present:

Miss Mamta Shrivastava, Advocate appears as Amicus Curiae on behalf the appellant.

Mr. N.K. Mehta, Panel Lawyer for the respondent-State.

ORAL JUDGMENT

(21st August, 2007)

Per Dhirendra Mishra, J:

Heard.

At the outset learned Amicus Curiae appointed on behalf of the appellant submitted that the appellant has already undergone the jail sentence imposed upon him under Section 307 of the IPC by the impugned judgment and he has been released from jail on 4.10.2000. However, learned Amicus Curiae contended that from perusal of the statement of complainant Dildaar (PW-5), who sustained injuries in the said incident, it would be evident that the incident occurred in a spur of

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मामला क्रमांक.....**सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश — 2 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

moment when the complainant and the appellant were engaged in mutual scuffle. There was no intention of the appellant to cause death of complainant Dildaar and the incident occurred, as the appellant & the complainant initially both had consumed liquor and were under the influence of liquor. She further submits that the offence against the appellant does not travel beyond Section 325 of IPC.

On the other hand, learned Panel Lawyer for the State supported the impugned judgment.

I have heard learned counsel for the parties and perused the evidence available on record including the impugned judgment.

The appellant has been convicted by the learned 2nd Additional Sessions Judge, Ambikapur in Sessions Trial No.278/96 vide judgment dated 24.10.1997 under Section 307 of IPC and has been sentenced to undergo R.I. for 6 years and to pay a fine of Rs.2,000/-, in default of payment of fine to further undergo R.I. for 6 months. The conviction of the appellant is based on the statement of injured Dildaar (PW-5), Heeraman (PW-2) & Shanichar (PW-3), who were eyewitnesses of the incident, and Dr. R.K. Tripathi (PW-4), who examined the injuries after the incident and proved the injury report of Ex.P-6.

Dildaar (PW-5) has stated that the appellant with an intention to kill him first assaulted him by club over his right leg, on his back and

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

back side of his left hand as a result of which he fell down on the ground and thereafter the appellant dealt a knife blow over his left eye as a result of which his left eye came out of the socket and he lost his eye. He has further stated that after the incident he fall down on the ground and even then the accused continued to assault him and he gave several blows by knife. After receiving injuries he underwent treatment, however he lost his vision from left eye.

The version of Dildaar (PW-5) is duly corroborated by the statement of Dr. R.K. Tripathi (PW-4), who has found corresponding injuries over the left eye & eye brow of Dildaar apart from other three injuries present over the shoulder, scapula region of back and swelling on the back side of left land. The doctor has specifically stated that Injury No.3 was grievous in nature & dangerous and the injuries were caused by the knife, which was sent to him for examination. Statement of the complainant is also corroborated by the statement of Heeraman (PW-2) & Shanichar (PW-3), who were witnesses of the incident.

Looking to the injuries sustained by the complainant on the vital part of his body i.e. face & eye and further considering the weapon of offence used for commission of crime by the appellant i.e. knife and also considering that repeated blows were inflicted by the appellant upon the complainant, this court is of the considered opinion that the

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
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intention of the appellant to cause death of the complainant has rightly been inferred by the trial court.

In the result, from the evidence available on record the trial court has not committed any illegality or infirmity in convicting and sentencing the appellant under Section 307 of the IPC. The appeal of the appellant is devoid of any substance, the same is liable to be dismissed and it is hereby dismissed.

Sd/-
DHIRENDRA MISHRA
Judge

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